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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,116	07/19/2001	Richard Willardson	51040.P002	1671
25943	7590	07/15/2005	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			TON, DANG T	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/910,116

Applicant(s)

WILLARDSON, RICHARD

Examiner

DANG T. TON

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 9, 15-17, 23-25 and 27 is/are rejected.
- 7) ☒ Claim(s) 5-7, 10-14, 18-22 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/05/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8 line 1 , " the combinational logic" has no antecedent basis. Similar problem exists in claim 9.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4 and 15-17,23,24,25,and 27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,732,228. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following formalities:

For claims 1-4 and 15-17,23-25, and 27, the claims 1-13 of U.S. Patent No. 6,732,228 disclose a system/method comprising:

a content addressable memory (CAM) to store key entries corresponding to one or more classes of data represented by the CAM,
each of the key entries being associated with one of a plurality of key tags,
wherein each key tag corresponds to one of a plurality of subclasses of data;
and logic to extract a data key from a data stream, to compare at least a portion of the data key with the key entries to determine if the data key matches any of the key entries, and to

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output one or more key tags associated with matching ones of the key entries to form at least a portion of a categorization vector to facilitate classification of the data stream;

further comprising a plurality of CAMs to store a plurality of key entries and associated key tags, wherein each of the plurality of CAMs represents a unique one of a plurality of classes of data;

wherein the logic compares at least a portion of the data key with the plurality of key entries to determine if the data key and the plurality of key entries are equivalent;

wherein the logic comprises logic to extract a plurality of data keys from a single packet of a data stream;

wherein output from each of the plurality of CAMs is concatenated together to form a portion of the categorization vector;

wherein if the data key does not match any of the key entries stored within a given one of the plurality of CAMs, a predetermined bit value is output to form a portion of the

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categorization vector dedicated to the given one of the plurality of CAMs to indicate such;

wherein the one or more key tags are concatenated together to form at least the portion of the categorization vector;

wherein each key tag within the categorization vector corresponds to a unique key entry;

extracting a data key from a data stream;
comparing at least a portion of the data key with one or more key entries stored within a first content addressable memory (CAM) representing one or more classes of data to determine if the data key matches any of the key entries,
wherein each key entry is associated with one of a plurality of key tags each representing one of a corresponding first plurality of subclasses of data;
outputting one or more of the plurality of key tags associated with matching ones of the key entries to form at least a first portion of a categorization vector; and classifying the data stream based at least in part upon the categorization vector;

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wherein extracting the data key comprises extracting at least one bit of data from a data packet of the data stream;

further comprising: comparing at least a portion of the data key with one or more key entries stored within a second CAM representing a second class of data, wherein each key entry stored within the second CAM is associated with one of a second plurality of key tags each representing one of a corresponding second plurality of subclasses of data;

wherein if the data key matches one or more key entries stored within the first or second CAMs, a corresponding one or more of the first or second plurality of key tags are output to further form at least part of the categorization vector; and

wherein each of the plurality of key tags comprises a binary representation of 2^N subclasses of data.

SEE claims 1-13 of the Patent number 6,732,228.

Applicant's claims 1-4 and 15-17, 23-25, and 27 merely broaden the scope of the claims 1-13 of U.S. Patent No. 6,732,228 by eliminating the terms "a content addressable memory (CAM) to store key entries corresponding to one or more classes of data represented by the CAM, each of the key entries being associated

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with one of a plurality of key tags, wherein each key tag corresponds to one of a plurality of subclasses of data "from claim 1 or claim 16 or claim 24 of the patent. It has been held that the omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re karlson, 136 USPQ 184 (CCPA). Also note Ex Parte Raine, 168 USPQ 375 (bd. App. 1969); omission of a reference element whose function is not need would be obvious to one skilled in the art.

3. Claims 8-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

4. Claims 5-7,10-14,18-22, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Acharya et al. (5,903,559) and Gorman et al. (2003/0167390) are all cited to show systems which are considered pertinent to the claimed invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANG T. TON whose telephone number is 571-272-3171. The examiner can normally be reached on MON-WED, 5:30 AM-6:00 PM and Thur 5:30-9:30 A.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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D. Ton

A handwritten signature in black ink, appearing to be 'D. Ton' with a stylized flourish at the end.

DANG TON
PRIMARY EXAMINER